# City of Norfolk

Office of the Mayor
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Certified Mail – Return Receipt Requested

September 5, 2007

TO: Commissioner Rod Johnson - District 4 - Chairman
Commissioner Frank E. Landis, Jr. - District 1 - Vice-Chairman
Commissioner Anne C. Boyle - District 2
Commissioner Tim Schram - District 3
Commissioner Gerald L. Vap - District 5
Nebraska Public Service Commission
1200 N Street, Suite 300, Lincoln, NE 68508

Dear Members of Nebraska Public Service Commission:

We are aware that the Executive Director of the Nebraska Public Service Commission was contacted by letter on July 16 by attorneys for Nebraska Resources Company, LLC, who requested that the Commission investigate the jurisdictional issues and expeditiously rule that:

1. LDCs are ***not*** "high-volume ratepayers" within the meaning given such term under section 2(7) of the SNGRA, Neb. Rev. Stat. section 66-1802(7) (2006);
2. Nebraska's prohibition against "double piping" under SNGRA section 52 Neb. Rev. Stat. section 66-1802 (2006) ***does not apply*** to a new pipeline interconnect to an LDC already served by an interstate pipeline; and
3. The Commission ***has*** jurisdiction over an Application for a Certificate of Public Convenience under section 53(1) of the SNGRA Neb. Rev. Stat. section 66-1853(1) (2006), to operate as a "jurisdictional utility" a pipeline located wholly within the state of Nebraska to deliver natural gas to LDCs and other customers.

On behalf of the industries, businesses and citizens of Norfolk, we encourage you to rule affirmatively to all of the issues raised by the Nebraska Resources Company, LLC, representatives.

We know that you are aware that Norfolk recently lost an economic development opportunity to recruit Specialty Protein, LLC, because Kinder Morgan, the exclusive pipeline supplying natural gas to Norfolk, was unable to deliver a firm natural gas supply of 6,000 decatherms per day to Speciality Protein. This was because of Kinder's infrastructure deficiencies at three locations: Town Border Station (TBS) #2, located in Norfolk; an 11-mile interval of six-inch main on the Albion-to-Norfolk pipeline; and insufficient capacity between Grand Island and Albion. Kinder's deficient infrastructure was the exclusive cause of the "embolism" that prevented Specialty Protein from obtaining its required firm supply of 6,000 decatherms per day. We have enclosed a colored map of the Kinder service area that depicts locations of the deficiciencies. The following chronology explains the events that caused this result:

- On February 22, 2007 Elkhorn Valley Economic Development Council, Specialty Protein and the City of Norfolk signed a Memorandum of Understanding (MOU) that outlined the various infrastructure needs that Specialty Protein required for site development. Item No. 4 on the MOU specified that the appropriate entity with authority would provide electrical, natural gas and communications services to the site at no cost to Specialty Protein.

- On or about May 29, 2007 Specialty Protein concluded that the gas supply to the site was unavailable for the company's projected needs of approximately 6,000 decatherms per day. Specialty Protein began direct negotiations with the pipeline company, Kinder Morgan on solutions to obtain the needed supply.

- On or about July 5, Specialty Protein was informed by Kinder Morgan that the required supply could not be assured without additional infrastructure. An impact on available supply was attributed to the recent startups of ethanol plants in the region that impacted Kinder's ability to deliver gas to Specialty Protein without new infrastructure.

- Between July 5 and 27, 2007 representatives of Specialty Protein, the City of Norfolk, Elkhorn Valley Economic Development Council, Aquila, Kinder Morgan and other entities had numerous phone conferences evaluating how an expanded supply could be accomplished to accommodate Specialty Protein's production. To accommodate Kinder's capitalization and credit assurance interests, the City would have needed to enter into a 10-year contract with Kinder for 1500 decatherms a day at $.84. This would be a $460,000 annual commitment to Kinder for 10 years. Plus the City would be required to commit to a $1 million capital contribution. Aquila's participation was very discretionary and Aquila would not committing to financing 30% of the capital cost. Aquila's LDC transportation rate of $.40 would be added to Kinder's $.84 rate to achieve a rate comparable to Specialty Protein's rate from South Sioux City which was a volumetric rate (only charged for actual gas transported not for the capacity reserved) of $.22 . Aquila's rate could be reduced to $.035 if the City paid Acquila's upfront capital cost of $200,000. Aquila, unlike Kinder, would charge just for the transportation capacity used, not committed for. Aquila estimated this would be about half of the amount committed. Kinder said that it estimated that three years subsequently, the City would have to finance another $4.2 million related to the expansion to 6000 decatherms, which was not a firm cost. In the final analysis, the total cost to the City was unknown, but might approximate $10,000,000.

- Because of the significant costs involved to expand pipeline infrastructure, the parties were ultimately compelled to conclude that Specialty Protein could not be accommodated within the economic constraints affecting the company and the City of Norfolk. Therefore Specialty Protein reluctantly decided to relocate the company's facility to South Sioux City.

We believe there are at least two important reasons that the Nebraska Public Service Commission should rule as Nebraska Resources Company, LLC, has requested:

1. FERC approval will not allow construction until November 30, 2009. Nebraska Public Service approval will allow construction by March 31, 2009. Until Norfolk and other communities constrained by the Kinder pipeline have expanded gas supply, they will simply be uncompetitive in attracting any new industry that uses natural gas. Currently Norfolk's daily load is approximately 21,000 decatherms, which is used, respectively, by Aquila's business and residential customers (approximately 10,000 decatherms), Louis Dreyfus Ethanol Facility (approximately 4,100 decatherms) and Nucor Steel (approximately 6,000 decatherms). These loads do not include additional supply that will be needed by Faith Regional Hospital and other existing large customers. The Nebraska Public Service Commission process will be quicker in providing more competition for current and future gas supply.

2. The Nebraska Public Service process would be less disruptive to agricultural interests than would the FERC process because crops would be out of the ground by the time of the estimated Nebraska Public Service timeline.

Please consider our interests as **urgent** for the economic development of north central and northeast Nebraska. Without your assistance, we are effectively closed for business for any company that needs new firm gas supply.

We thank you very much for considering our views.

Sincerely,

CITY OF NORFOLK

Gordon D. Adams
Mayor

Jim Brenneman, President
Councilman Ward III

Ivan Van Dyke
Councilman Ward III

Vicki Saunders
Councilwoman Ward I

Dale Coy
Councilman Ward I

EQUAL HOUSING OPPORTUNITY

Dave Fauss
Councilman Ward II

Jim Lange
Councilman Ward II

Karl Reeder
Councilwoman Ward IV

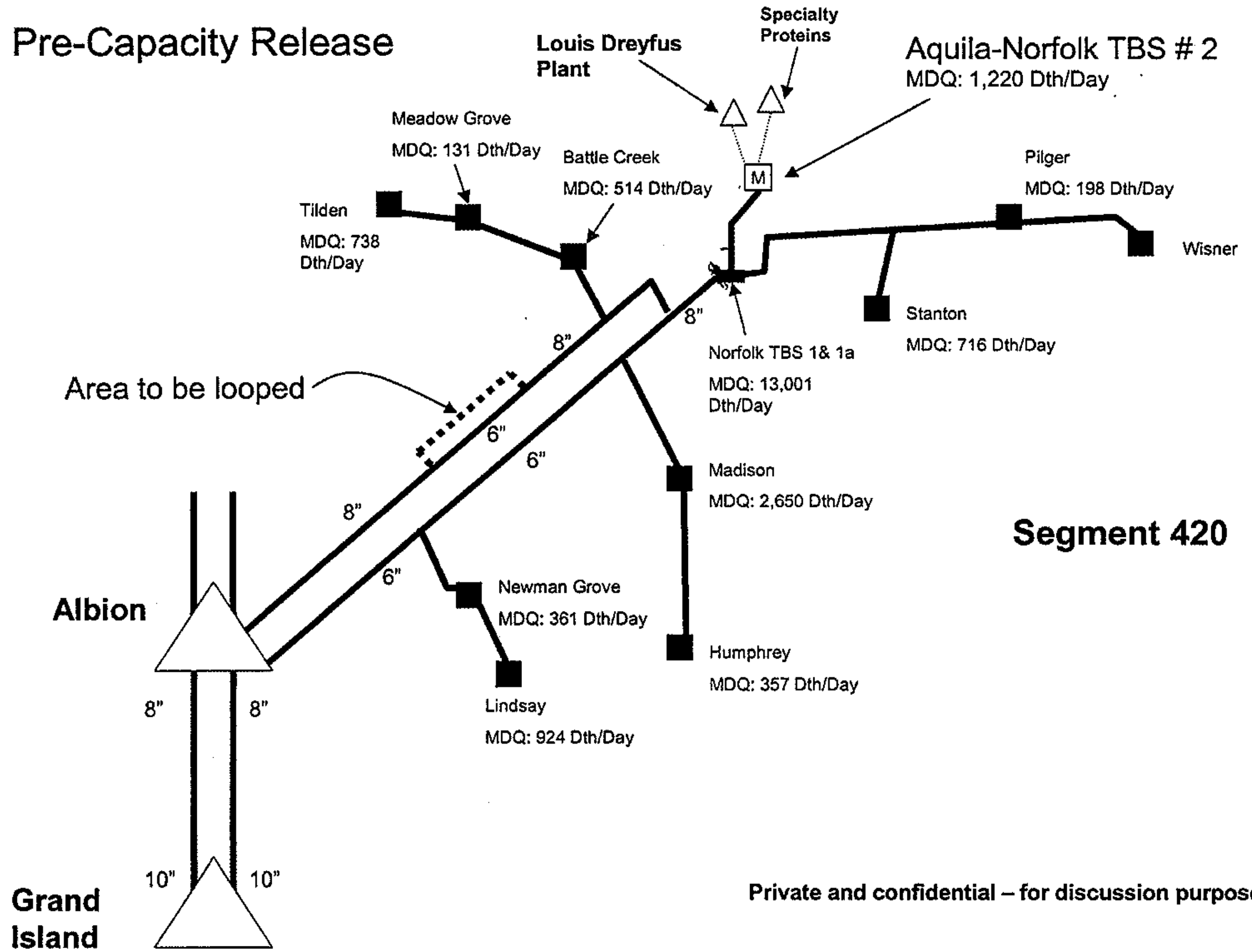
Erik Wilson
Councilman Ward IV

cc: Governor David Heineman
Attorney General Jon Bruning
Senator Mike Flood, Speaker
Senator Mike Friend, Chair of Urban Affairs
Elkhorn Valley Economic Development Council
Norfolk Chamber of Commerce

EQUAL HOUSING
OPPORTUNITY

# KMIGT – Norfolk, NE Area

## Pre-Capacity Release

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